

# **Early Years Assistance**

## **Consultation on Best Start Grant Regulations**

**March 2018**



**Scottish Government**  
Riaghaltas na h-Alba  
gov.scot

## Ministerial Foreword



The Social Security (Scotland) Bill completed Stage 2 of the Parliamentary process on 1 March 2018, a further point of progress to delivery of Scottish Social Security. This consultation on draft regulations for the Best Start Grant (BSG), a form of Early Years Assistance provided for in the Bill, is the first in a series of consultations that will take your views on the new benefits.

On 28 September 2017 we published a set of [illustrative regulations](https://beta.gov.scot/publications/early-years-assistance-best-start-grant-illustrative-regulations-policy-narrative/)<sup>1</sup> for the BSG to show how we intend to use our powers under the Social Security Bill. The feedback we received has been used to develop the consultation questions and the draft regulations we are now consulting on. This consultation is the next step in a journey of consultation and engagement, with potential recipients, the people who support them and experts in the field. I thank the BSG Reference Group for working with us so constructively during this process.

This consultation will inform our final policy, and ensure that robust systems can be developed, building towards the delivery of the BSG as part of the first wave of new Scottish benefits which will be in place by Summer 2019.

The BSG will help support families who receive certain benefits, both in and out of work, who are feeling the impact of UK Government's welfare reform. The provision for the first child will increase from £500 under the UK Sure Start Maternity Grant (SSMG) up to a total of £1,100, over three payments. Subsequent children, who receive nothing from the UK Government, will receive a total of £800 under the BSG.

The assistance will help parents and people who have become responsible for a child buy, for example, the equipment they need for a baby and to support the child's transition to early learning and childcare and then primary school. The extra money will help reduce the financial pressures on the household, which can have negative effects on maternal health, mental health, parenting skills and family relationships.

I am confident of the positive effect that the BSG will have on children and families. We have built the regulations for the benefit to link with our wider policy on health and education in early years, drawing on the wealth of evidence that we have in Scotland. We now need your views to inform final decisions and to check that the detail of what we are proposing is right before we progress to making the regulations. I encourage you to respond to the consultation, and thank you in advance for taking the time to give us your views.

**Jeane Freeman MSP**  
Minister for Social Security

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<sup>1</sup> <https://beta.gov.scot/publications/early-years-assistance-best-start-grant-illustrative-regulations-policy-narrative/>

## Contents

Section	Title	
1.	About the Consultation	Page 4
2.	Policy Objectives of Best Start Grant	Page 8
3.	Outline of Regulations	Page 9
4.	Schedule 1 - Maternity and New Baby Payment	Page 11
5.	Schedules 2 & 3 - Nursery & Early Learning Grant and School Age Grant	Page 18
6.	Request for a Re-determination	Page 19
7.	Impact Assessments  Equalities Impact Assessment (EQIA)  Children's Rights and Wellbeing Impact Assessment (CRWIA) Business and Regulatory Impact Assessment (BRIA)	Page 21
Annex A	Draft BSG Regulations	Page 30

## INTRODUCTION

1. The Scotland Act 2016 devolved new social security powers to Scotland. One of the powers which has been devolved allows for an equivalent of the Sure Start Maternity Grant (SSMG) to be provided. Scottish Ministers are using this power to create a form of assistance referred to as Early Years Assistance in the Social Security (Scotland) Bill. This will be delivered in the form of a new benefit called the Best Start Grant (BSG). You can find the documents relating to the [Social Security \(Scotland\) Bill](#)<sup>2</sup> on the Scottish Parliament website.

2. The Social Security in Scotland Consultation ran from July to October 2016. The section on BSG received over 100 responses from both organisations and individuals. We have received, and are continuing to take, views from Experience Panel members and other parents, for example groups of kinship carers and lone parents on the design of the form and service to deliver BSG. This has been particularly helpful where we are thinking about issues which have an impact on dignity, respect and fairness.

3. The Best Start Grant Reference Group was established in October 2016. The group has met 6 times to help gather evidence, bring a variety of informed perspectives and provide feedback on proposals. In addition there have been smaller sub group meetings on specific areas and interests, such as developing options for when people can apply or the rules for kinship carers.

4. Illustrative regulations for the Best Start Grant were issued to the Social Security Committee and the Delegated Powers and Law Reform Committee of the Scottish Parliament on 28th September 2017 and subsequently published on the Scottish Parliament's website. They were also shared, with a request for feedback, with the BSG Reference Group, the Disability and Carers Benefit Expert Advisory Group (DACBEAG) and its Scrutiny Sub Group, the Scottish Parliament Social Security Expert Panel members and selected stakeholders who have engaged in detail on the Bill. They were also included in the Social Security Newsletter on 15 November 2017.

## SECTION 1 - ABOUT THE CONSULTATION

### What are we consulting about?

5. This consultation asks questions on whether the draft BSG regulations, at Annex A, will have the desired effect and on some specific points, for example on establishing responsibility for the child, on which we would like to gather wider views to ensure we have identified the best solution. We do not envisage that the consultation will result in major changes to the framework of three payments or eligibility for BSG and any change that has an impact on financial planning would need careful consideration.

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<sup>2</sup> <http://www.parliament.scot/parliamentarybusiness/CurrentCommittees/105188.aspx>

6. The application process for the payments which will replace Healthy Start Vouchers will be linked with BSG to make it easier for people who qualify for both to apply, supporting increase in take up. However, where we refer to BSG in the Consultation, we mean only the three cash payments: the maternity and new baby, nursery and early learning, and school-age grants. A separate consultation on 'Welfare Foods - a consultation on meeting the needs of children and families in Scotland', including questions on Healthy Start Vouchers, will be undertaken in parallel and can be found at: <https://consult.gov.scot/>.

### **Who do we want to hear from?**

7. We are keen to gather the views of people with a working knowledge of social security and experience of working with regulations, for example welfare rights officers and local authorities. As the Scottish Commission on Social Security, which will be set up to scrutinise future regulations, will not be in place in time to participate in the consultation process, we plan to engage experts in social security legislation to provide effective scrutiny of the draft regulations.

8. In order to make this consultation as accessible as possible for people who might be affected by the changes, we are offering alternative ways of engaging for past, current and potential applicants for maternity grants. We think that questions 2 and 3 (in Section 4) will be particularly relevant to the people who will apply for BSG. To respond to the consultation, people will be able to choose between interviews (for example face-to-face or over the phone), group sessions, and the opportunity to provide written feedback in the form of a questionnaire. This will provide people with the opportunity to speak directly to researchers about their experiences and views on topics covered in the wider consultation.

9. We are proactively inviting Social Security Experience Panel members to participate in research on this topic, as well as working with a range of parenting and kinship care groups, and other relevant agencies to hear about their experience and views on key issues covered in this consultation. If you would like to tell us about your experiences and views, please contact [socialsecurityexperience@gov.scot](mailto:socialsecurityexperience@gov.scot) or:

**Freephone:** 0800 029 4974 (includes language line translation)

**Text:** Prefix 18001

**SMS:** 07467 447375

British Sign Language (BSL) users can contact us via <http://contactscotland-bsl.org>.

10. Please let us know about any additional support needs that you have in order to allow you to take part.

### **Who might be affected by the regulations?**

11. Pre-school children and their families who are on the qualifying benefits listed in the regulations and parents under 18 who are not on qualifying benefits will be affected. We are taking views directly from children via the Children's Parliament.

12. Under proposed eligibility, BSG will reach:

- Almost 90% of people in the bottom three income deciles, both in and out of work
- 97% of workless households
- More than 80% of households with no full time work (i.e. one or more working part time)
- Potentially more than 90% of lone parent households
- More than half of families with three or more children

13. Further details of who may be affected by the regulations can be found in the summary of draft Impact Assessments at section 7. We are consulting on these and welcome your views.

### **How will the regulations be taken forward?**

14. The responses to the consultation will be analysed and, taking these into account, final policy decisions will be made. The regulations will then be revised as needed and laid in draft for approval by the Scottish Parliament. They will then need to complete the parliamentary process before payment of BSG can take place.

15. Whilst the Bill is progressing, work is also underway on the design of the new Scottish Social Security Agency. This will be headquartered in Dundee but will have a further site of similar size in Glasgow. The aim is to recruit a diverse workforce that represents our society and the people who will use our service.

16. The BSG service design team have started to design the business processes which will allow citizens to access and receive the BSG. This includes the application process. We are using an 'Agile' approach to service design, which means that we continually test evolving designs with citizens to make the application process as user-friendly as possible.

### **What comments are requested and by when?**

17. We are inviting responses to this consultation paper by 15th June 2018.

To submit your response online please visit:

<https://consult.gov.scot/socialsecurity/best-start-grant>

If you would prefer, you can email your response to [bsgconsultation@gov.scot](mailto:bsgconsultation@gov.scot) or send to:

BSG Consultation  
Best Start Grant Team  
Social Security Policy  
Victoria Quay  
Edinburgh  
EH6 6QQ

## **Comments and Concerns**

18. If you have any comments about how this consultation exercise has been conducted please send them to: [bsgconsultation@gov.scot](mailto:bsgconsultation@gov.scot)

Or

Best Start Grant Team  
Social Security Policy  
Victoria Quay  
Edinburgh  
EH6 6QQ

## SECTION 2 - POLICY OBJECTIVES OF BSG

19. The BSG is split into three payments providing support during key transition periods in a child's early years. The maternity payment also provides support for people who have had a still birth. The policy objectives of the BSG cash payments are to improve children's wellbeing and life chances by providing support to lower income families at key transition points in the early years. BSG aims to help mitigate the effects of child poverty and material deprivation. The support is intended to contribute to improving outcomes for children, including reducing health inequalities and closing the attainment gap:

- **Maternity and New Baby Payment** - £600 for a first child and £300 for any subsequent child - will help with expenses in pregnancy or of having a new child, for example a pram or additional heating. This lessens the financial burden on lower income families when they are expecting or have a new child.
- **Nursery/Early Learning Payment** - £250 – will help with costs during nursery and early learning years to support child development, for example travel costs, changes of clothes for messy play, trips out and toys for home learning.
- **School Payment** - £250 – will help with the costs of preparing for primary school, for example a school bag, educational toys, after school activities such as swimming or football, or helping with the cost of school milk or school trips.

20. The regulations provide detailed rules relating to the BSG, including eligibility, what assistance is available, the value of the three payments falling within it and when to apply. Further rules will be set out in operational guidance.



## **SECTION 3 - OUTLINE OF BSG REGULATIONS**

### **Format of the Regulations**

21. The legislative framework for Scottish Social Security is intended to be simple and accessible. The Social Security Bill sets out an over-arching legislative framework and describes the different types of assistance to be provided. The intention is that regulations will contain the main relevant provisions for each type of assistance. In the case of BSG, the draft regulations comprise three schedules, one for each of the BSG payments. This is to allow the reader to identify the relevant grant and see all of the provisions for it in one place. Some aspects will therefore be repeated across the schedules.

### **INTRODUCTORY AND INTERPRETATION**

22. This section specifies the date of commencement and definitions used in the regulations, such as the definition of a partner and how days will be counted. Interpretation also includes an explanation as to when an application will be taken to have been made.

### **Applications and Determinations**

23. The aim is to make it as easy as possible for people who are entitled to BSG to take up their entitlement. In order to make the system accessible for people with a range of needs and preferences and to maximise take up, there will be multiple application channels for the BSG. Information on how to apply for devolved benefits will be publicised widely.

24. Each BSG payment is to be treated as a one off grant so, even if you do not qualify for the first payment, if your circumstances change by the time your child is ready for the second payment, you can still qualify. Where the Agency has verified information from a previous application, the intention is that it should be used, where practical and with the applicant's permission, to identify future BSG entitlement. The time lapse between determinations will mean that the Agency will need to contact the applicant and go through the application process with them to ensure that their circumstances have not changed.

### **Evidence**

25. Evidence requirements and processes to check whether applicants meet eligibility conditions are under development. This includes opportunities for using existing data sources, including gathering data from DWP and HMRC. Evidence requirements will be kept to a minimum and will be clearly specified.

### **Valid Application**

26. There will be certain conditions that need to be met to determine that a valid claim has been made. Relevant processes for this and for situations where the form does not meet the requirements will be set out once service design is further progressed.

## **Date of Application**

27. Applications will be assessed based on the eligibility of the applicant on a single day. The application is treated as being made on the day it is received by the Agency.

28. Once service design is further progressed, there may be some further regulations in this area that smooth application processes for applicants and increase efficiency of the social security system by reducing the need to handle applications repeatedly. For example, it may be possible to make provision for the situation where a backdated award of a qualifying benefit is made after the date of the BSG application.

## SECTION 4 - SCHEDULE 1 OF THE BSG REGULATIONS

### Maternity and New Baby Payment

#### ELIGIBILITY

29. Eligibility will be determined via a series of tests carried out on the date of application. The eligibility conditions are:

- (a) The application is received within the relevant application window.
- (b) No equivalent payment of an SSMG or BSG has been or is due to be made.
- (c) The applicant is habitually resident in Scotland, and is entitled to be living in Scotland.
- (d) The applicant is, or is the partner of, someone who is going to or has had a baby, or meets the responsibility test for the child by reason other than being a biological parent.
- (e) The applicant meets the test for financial circumstances.

The sections below give more detail on each of these.

**a) Application Windows** – to be valid, the application date must be in the relevant window but it can fall at any point in that window. For the Maternity and New Baby Grant this is between the mother reaching 24 weeks of pregnancy to 6 months after the birth of child. This extends the application window by three months by comparison with DWP to allow more time for parents to apply. Where there is a change of responsibility for the child during the first year of its life (for example where a child is adopted), the window is extended until midnight on the day before the child's first birthday.

**b) No award has already been made** – SSMG recipients are excluded from receiving a BSG Maternity and New Baby Grant for the same child. Each payment will only be made once per life event unless there is a change in the responsible person (for example the child moves to live with a kinship carer) to someone not named on the first claim, within the application window. In this case, a second payment can be made where the applicant meets the test of being responsible for the child.

**c) Residence** – our proposal is that Scottish claimants will be defined as those who are habitually resident in Scotland. Broadly, this would mean that to be eligible an applicant's main home must be in Scotland and their intention is to continue living there. They must also be entitled to be living in Scotland. In practice, residence will usually already have been established in relation to the qualifying benefit(s) and for many people this will be sufficient to establish Scottish residence. This, combined with the Scottish Government's shared work with DWP to make the systems as seamless as possible, means that we do not anticipate a significant evidence burden being placed on applicants, especially where they are coming to Scotland from other Common Travel Area jurisdictions, in line with the reciprocal and pragmatic approach that is currently taken. However, for a small number of BSG applicants who are

under 18 and not required to be on a qualifying benefit, we are required to make provision for a separate residence test. It may also be helpful to note that habitual residence is an established legal concept and is consistent with the eligibility conditions used in the UK system, throughout the Common Travel Area and in many member states of the European Union. Using habitual residence therefore brings a number of advantages:

- Consistency with the UK system is important and mitigates the risk of double claiming and/or gaps in eligibility.
- It will prevent people who happen to be in Scotland on a particular day or for a short period from being entitled to benefits (e.g. if they have a second home or are on a long holiday).
- Since a person can only be habitually resident in one place at a time, it prevents them from qualifying for assistance from multiple jurisdictions.

30. The other main concept of residence sometimes used in social security systems is 'ordinary' residence. This is very similar to habitual residence in that it requires a person to be living in a jurisdiction and to have an intent to remain there. As we understand it, the key difference is that ordinary residence can be established even where the intent to remain is for a short or temporary purpose, meaning that a person could be ordinarily resident in one jurisdiction but habitually resident in another. While ordinary residence may be easier to administer, it is therefore a less robust concept that may confer eligibility on people with relatively weak or temporary associations with Scotland. Its inconsistency with the approach taken in relation to the large majority of UK assistance potentially also creates scope for administrative problems, including double claiming.

31. We would welcome comments on the proposal to use habitual residence as the threshold for demonstrating residence in Scotland.

#### **Question 1**

**We have proposed that applicants must be habitually resident in Scotland to qualify.**

**Do you agree with this approach?**

#### **d) Life events and responsibility for the child**

The applicant needs to:

- be more than 24 weeks pregnant or to have been more than 24 weeks pregnant (i.e. have already had the baby). We considered making the maternity and new baby grant conditional on the applicant receiving advice from a health professional, in the same way as the SSMG is. However, most women find out about the SSMG after they have registered with a midwife and we found that the requirement for a midwife signature would be a barrier to on-line applications. Instead, applicants will be encouraged to take health advice about their pregnancy if they have not already done so when they apply. Where there is a stillbirth, a payment will be made regardless of whether the application was made before or after the date of the stillbirth, within the application window, in order to provide support for mothers who may have incurred expenses and are coping with the loss of a child;

Or/

- be the partner of someone in the situation above. "Partner" is defined in the Interpretation section;

Or/

- have taken on parental responsibility for the child at some point before the date of application.

32. The definition of responsibility for a child is set out in the Interpretation section. The wide range of different family situations has made it difficult to establish a simple test and evidence of responsibility. The test in the draft regulations is based on that used by DWP for the SSMG, as set out in the table below. We have worked with organisations such as One Parent Families Scotland, Engender, CELCIS, Mentor UK and Citizens Advice Scotland and identified some advantages and disadvantages of the test. This has led us to consider an alternative approach and possibly a tiered test so that, if an applicant cannot meet the primary test, they have the option to provide evidence in another way. We are still gathering information and exploring the systems and data sharing implications of the tests and would welcome your views on the tests set out below:

<b>Possible Test of Responsibility for the Child</b>	<b>Advantages and Disadvantages</b>
<b>TEST 1 - Set out in draft regulations</b> 1) One of the following is true: <ul style="list-style-type: none"><li>• The individual is the parent of the child</li><li>• The individual or their partner is the guardian of the child</li><li>• The individual or their partner have had the child placed with them for adoption</li><li>• The individual or their partner have an adoption order,</li><li>• The individual or their partner have a kinship care order</li></ul>	<ul style="list-style-type: none"><li>• CB is quick to process and easy to access, it has a high take up rate so it's a straight forward way to evidence responsibility for many people.</li><li>• CB is not always awarded to the main carer of the child, which can mean the person buying the things that BSG is intended to buy may not be able to access it, particularly in cases of financial abuse or relationship breakdown.</li><li>• There can be delays and barriers to award of adoption and kinship care orders which mean that some families</li></ul>

<ul style="list-style-type: none"> <li>The individual or their partner have a parental order under the Human Fertilisation and Embryology Act 2008.</li> </ul> <p><b>2) And</b></p> <p>Either the individual or their partner is in receipt of child benefit (CB) or/</p> <p>Nobody is in receipt of CB and the child normally lives with the individual.</p> <p>Kinship carers are excluded from the requirement to be in receipt of CB.</p>	<p>will be excluded.</p> <ul style="list-style-type: none"> <li>We have heard from applicants that it can be difficult for them to identify exactly what their status is and that it can be a sensitive subject to discuss.</li> <li>CB it isn't reviewed regularly and is relatively easy to transfer to another person, increasing the chance of gaming the system. Disputes can cause delays in awards.</li> </ul>
<p><b>TEST 2 - Possible alternative test</b></p> <p>1) The child is listed on your CTC or UC award. You need not be getting a payment in respect of the child e.g. if the child is your 3<sup>rd</sup> child.</p> <p>2) The child does not appear on a CTC or UC award but you are in receipt of CB for the child.</p> <p>3) An exception would be required for some people who cannot get these benefits, e.g. kinship carers to be able to provide alternative evidence if they cannot access the benefits listed at 1) or 2).</p>	<ul style="list-style-type: none"> <li>CTC and UC are usually paid to the main carer, who the child normally lives with. However, the two child rule may mean that this is a confusing test, as people may think that they cannot access the benefit for 3<sup>rd</sup> and other children.</li> <li>CB is easier to apply for and quicker to process than CTC or UC and available to some people who cannot access these. In most cases, the child will live with the person in receipt of CB but it is not a requirement that they do so we have put this test second.</li> <li>Informal kinship carers who do not have an order in place but are in receipt of CTC/UC or CB will qualify.</li> <li>We would not need to ask people for personal information about a legal order or their relationship to the child unless they have not been able to secure benefits for that child.</li> </ul>

## Question 2

**There are two alternative responsibility tests set out in the consultation:**

**1) receipt of Child Benefit and, where relevant, a care order; or**

**2) a test based on receipt of either Universal Credit or Child Tax Credit, or Child Benefit.**

**Which is your preferred test, test 1 or test 2?**

## **Children who do not live with their birth parents**

33. We will not pay a BSG where relevant costs for the child are met by the local authority, either in residential accommodation or where they are placed with foster parents. However, due to poor outcomes for kinship care children and because there is not consistent financial support currently available through kinship care allowances, we do propose to pay the BSG to kinship carers. As outlined above, the second approach to establishing responsibility would capture kinship carers who do not have a legal order but have been awarded CTC, UC, or CB for the child. Test 2 therefore reaches more kinship carers than the first approach. Neither will capture all voluntary kinship carers. While we understand that some children living with other family members who do not have any benefits or an order in place may benefit from a BSG payment, we need a simple robust check that the applicant is responsible for the child.

### **e) Financial Circumstances**

34. BSG payments will be made to people who have been correctly awarded a qualifying DWP or HMRC payment, people who are dependent on someone who has been awarded a qualifying payment or who are under the age of 18. Qualifying payments are:

- income support
- income based job seekers allowance
- income related employment support allowance
- pension credit
- any tax credit
- universal credit (UC) award of more than £0 in the month before or, in the case of new applicants, the month in which the application is made.
- housing benefit

35. While SSMG limits eligibility via tax credits, BSG will be paid to anyone on a tax credit, allowing working people to apply for their BSG payment before a child is born rather than waiting until they are in receipt of a CTC after the child is born. The monthly variations in UC may mean that it is not clear to the applicant whether they are in receipt of UC in the current month at the time they apply for the BSG so we plan to extend the eligibility test over two months. Due to the way that UC is administrated, around 6% of the caseload at any one time has an award of £0 because their earnings are too high to receive a payment. We propose that people with a £0 award of UC should not receive a BSG.

#### **Question 3**

We have proposed that qualification by UC should be an award of more than £0 in the month before or the month in which the application is made.

**Do you agree with this approach?**

36. Following feedback on the illustrative regulations, we considered including Maternity Allowance (MA) as a qualifying benefit for BSG as we were made aware of a quirk in the calculation of UC. This means that a small number of lone parents under 25 who do not have to meet housing costs and have earnings at too high a level to receive UC before they go on to MA, will not qualify BSG. Apart from this group, women on MA can qualify by another route. MA is not means tested and income of spouses and partners is not taken into account so including it would dilute the focus of BSG eligibility on people with lower incomes and attach a significant additional cost. We therefore concluded that it would be disproportionate to include MA as a qualifying benefit to reach the excluded group.

37. We have also considered eligibility for young care leavers and have found that they will qualify under the proposed eligibility. Detail on this can be found in the summary of Impact Assessments at Section 7.

### **Eligibility Options for Young Parents**

38. The situations of young parents vary. We will not require young parents under 18 to meet the financial eligibility test of being on a qualifying benefit. The approach set out in the illustrative regulations was for a dependent young parent of 18 or 19 years old to evidence low income through the benefit claim of their own parent, (or the claim of the carer on whom they are a dependant, if not their parent). However, we have found that this would involve obtaining permission from the grandparent for their data to be used, which creates an additional stage in the process and could create a delay in issuing payment. We also concluded that it would often be more helpful for very young parents, under 16, to have the support of an adult in spending the grant.

39. Taking into account what we have heard about the situation for young parents, we think that the most practical way to provide support may be to revert to the approach used for the SSMG. This would mean that the grandparent (or other person in receipt of UC etc in respect of the parent) is the eligible person in cases where the parent is under the age of 16 or is 18 or 19 and in training or non-advanced education and the grandparent or other person is still in receipt of tax credits or UC or CB for the young parent.

#### **Question 4**

**We have proposed that in cases where the parent is under the age of 16, or is 18 or 19 and the grandparent (or another carer) is still in receipt of tax credit or UC because the parent is in training or non-advanced education, the grandparent or carer will be the eligible person.**

**Do you agree with this approach?**



## **ASSISTANCE TO BE GIVEN – VALUE OF GRANT**

40. For the maternity and new baby grant, the value will be £600 to a first child and £300 to second and subsequent children.

### **Second and subsequent children**

41. In order to determine whether a child is a first or a subsequent child in a family, we propose the same approach as for the SSMG. That is, where there is a child in the family aged under 16, any other child born in to the family will be treated as a subsequent child. Subsequent children will be paid a £300 birth payment rather than £600. Where the parent is under 16, they are excluded from this rule e.g. where a 15 year old is living with her mother and becomes pregnant, she would be entitled to a £600 payment for her first child.

42. There will be no upper limit on the number of children who can receive a BSG in any one family.

### **Multiple Pregnancy Supplement**

43. For multiple births, the normal BSG award is made and, in addition, there is a multi-birth supplement to recognise the additional costs of a multiple birth. This table illustrates the effect:

<b>No. of children in multiple birth</b>	<b>BSG Payment</b>	<b>BSG Multi Birth Supplement</b>	<b>Total</b>
2	£600 (first birth) £300 (second birth)	£300	<b>£1200</b>
3	£600 (first birth) £300 (second birth) £300 (third birth)	£300	<b>£1500</b>
2 but where there is already a child within the family	n/a (first birth) £300 (second birth) £300 (third birth)	£300	<b>£900</b>

### **Form in which the Grant is Given**

44. We anticipate that the majority of payments will be made in the form of a BACS payment. No other form of payment will be imposed on an applicant without their consent.

## **SECTION 5 – SCHEDULES 2 and 3**

45. Schedules 2 and 3 follow the same pattern as the first schedule but with the relevant dates and amounts for the payments.

### **Nursery and Early Learning Grant - £250**

46. For the Nursery and Early Learning Payment, the application window is the day of the child's second birthday to 6 months after its third birthday. The long nursery and early learning window is to capture the two common ages for starting nursery, depending on whether parents qualify for a funded nursery place when the child is 2 or 3. This means that parents can choose to apply for their payment when their child starts nursery. There is no requirement for the child to take up a place at nursery and where the family's decision is not to do this, the payment can be taken up at a point relevant to their child's development and any other childcare arrangements.

### **School Age Grant - £250**

47. There is no requirement to take up a place at school to qualify for the payment. For the School Age Payment the application window is the 1<sup>st</sup> of June in the year that the child would ordinarily start school (start of Autumn term) until the end of February in the year following the date of ordinarily starting school. While it will not suit every case, we do not propose to vary the dates for the school payment where a parent decides to defer the school start date. This would add a further layer of complexity. Where a school place is deferred, the child must be registered in the year in which they would ordinarily start school. This means that the parent will be made aware of the grant and will be able to access it, perhaps to support early learning in the additional pre-school year.

## **SECTION 6 - REQUEST FOR A RE-DETERMINATION**

48. Re-determination provides a right for an individual to challenge a determination, should they disagree with it. The re-determinations approach is to focus on getting the decision right, have clearly published procedures and timescales for challenging decisions with meaningful redress as well as having processes in place for the Agency to put things right quickly where there has been an error.

49. Unlike the DWP's Mandatory Reconsideration process that just examines whether the original decision was right or not, in the Scottish system the Agency will put aside the original determination and a different officer will undertake the full process of making a new determination, which will replace the earlier determination completely.

50. The individual will be able to ask for a re-determination without having to supply further evidence, but the Agency will take into consideration any new evidence provided. If the individual is dissatisfied with the re-determination outcome, they can appeal that to the First-tier Tribunal. The Agency will, as a result of amendments made to the Bill at Stage 2, have a duty to provide an individual with the form required to initiate an appeal, and to forward the form to the Tribunals Service, along with all relevant information, should the individual take up the right to appeal.

### **General Questions on the Regulations**

#### **Question 5**

**Do you think that the draft regulations (Annex A) are likely to meet the policy intent set out in this document?**

#### **Question 6**

**Can you identify any potential unintended consequences of the regulations?**

#### **Question 7**

**Can you identify any gaps in the regulations?**

### **Timescales for the re-determination process**

51. Our proposal is that a re-determination request relating to BSG should be made within 31 calendar days of being notified of the determination. This timescale is the same as the timescale for bringing an appeal to the First-tier Tribunal.

52. If a request is not made within the 31 days allowed, a request for a re-determination can still be considered at any point up to a year after being notified of

the original determination if there is a good reason for the request being made late. In the first instance the Scottish Ministers will decide whether a reason is a good one, with a right of appeal against their decision to the First-tier Tribunal.

53. We propose that, on receipt of a request for a re-determination of entitlement to BSG, Scottish Ministers should have 15 working days to make the fresh determination. This period is to be counted from the next working day after the Agency receives a re-determination request in the format required by the Agency. If there is a failure to make the re-determination within the 15 day period, the individual will be informed that they have the right to appeal to the First-tier Tribunal against the original determination.

**Question 8 (a)**

**We have proposed that requests for a BSG re-determination should be made within 31 calendar days of receipt of notification of the original determination. Do you think that this is an acceptable time period?**

**Question 8 (b)**

**We have proposed that a BSG re-determination should be processed within 15 working days of receipt of a request. Do you think that is an acceptable time period?**

## **SECTION 7 - IMPACT ASSESSMENTS**

54. As we have been assessing options for policy and regulations we have been logging impacts and developing the following impact assessments on which we are now consulting:

- The Equality Impact Assessment (EQIA)
- The Child Rights and Welfare Impact Assessment (CRWIA)
- The Business and Regulatory Impact Assessment (BRIA).

### **BSG EQUALITY IMPACT ASSESSMENT SUMMARY**

55. The BSG is likely to have a significant positive impact on children and on equalities groups because of the increase in value of the maternity payment and the introduction of the two additional £250 payments. In combination with action to increase take up, for example extending application windows and simplifying eligibility criteria, this could mean that nearly 60,000 more Scottish children benefit each year from a BSG payment than do from the SSMG. The impacts on groups who share protected characteristics that we have identified to date are set out below.

#### **Age**

56. Young parents find accessing the benefits they are entitled to confusing and difficult. We also found out that over half of children whose mother is aged 25 or younger were in poverty. Responses from the Social Security consultation highlighted under 18s as a group we should consider making simpler provision for.

57. Therefore the Scottish Government has decided to invest additional resource to introduce automatic entitlement to under 18s – they do not need to be on a qualifying benefit. On a telephone or online claim, this will mean that they are asked fewer questions at application stage, meaning they are more likely to complete the process. Contact with young parents will mean Agency staff can promote income maximisation and make contact with antenatal services if the young person is not already registered.

58. We will work to embed BSG in wider early years policy such as the Family Nurse Partnership which will help improve take-up for younger parents, ensuring they get the support they need to alleviate hardship.

#### **Disability**

59. Looking at the pattern of disability and poverty we expect families which include a disabled adult or child will be well represented in the BSG applicant group.

60. We heard from the Social Security consultation that costs are higher for disabled children and that we should consider adding Child DLA as a qualifying benefit for BSG. However, we concluded that costs associated with the disability of a child were better looked at through child DLA.

61. The needs of disabled children have contributed to decisions in designing the BSG:

- Disabled children do not necessarily meet developmental milestones in the same timescales as other children. The BSG has a long application window for the early learning payment which accommodates children with different needs;
- Disabled children may not take up a place in formal education at the same timescale and there is no requirement to enrol/attend nursery or school to qualify for a payment; and
- Parents whose new baby has been identified as having a disability will have other priorities in the first few months. The extended application window (6 months rather than 3) will give them more time to apply.

62. For parents who have a disability, we are in the process of building a system which meets accessibility standards. The Scottish Government needs to adhere to Digital First Service Standards. To progress to each new stage of development, the system must pass a Digital First Assessment. These assessments ensure that the system will meet accessibility standards for people who need extra support to use our service.

63. Through the Experience Panels, we are gathering information on the barriers that users experience and seeking to design a system which meets their needs, offering a range of methods for application and contact. It should be noted that all methods of application and contact may not be available from the very first day of BSG implementation but the full service will provide them.

## **Sex**

64. In response to the Social Security consultation, specifically related to the Early Years Assistance schedule, two stakeholders (Scottish Women's Aid (SWA) and Engender) have raised two related points:

- women are vulnerable to financial abuse and protections are required in the BSG process; and
- that there is an imbalance in power in terms of financial resources in the home and that BSG provides an opportunity to mitigate that by paying women in preference to men.

65. They pointed out that using CB to test responsibility may mean that the payment does not go to the main carer. We are therefore considering an alternative test using CTC/UC. We also plan to raise awareness among Agency staff on the indicators of domestic abuse so that they can provide a sensitive service and signpost organisations who can provide support.

66. We also considered whether to make it the default to make the payment to the mother. However, we concluded that the additional administration and questioning required to do this would be disproportionate. A high proportion of the people who meet the responsibility test will be women, for example in August 2017, approximately 84% of recipients of CB in Scotland were female.

67. We also identified that 57% of mothers in prison stated that they were 'involved in caring for (any of) their children' before they came into prison. The Scottish Government have made clear commitments to reducing reoffending, and have invested £15.5 million in the Reducing Reoffending Change Fund, to create new services that offer mentoring for men and women either to build a new and better life after their release, or to comply with community sentences.

68. We have held meetings with colleagues in the Justice department, the Scottish Prison Service (SPS) and visited Cornton Vale to understand the pathways of offenders and how best we can support them to access a BSG where they are entitled. Once in post, Local Delivery staff will be able to work with the prisons in their area to identify what help and support can be provided to ensure those who are entitled know and are supported to apply, either as they go in to or come out of prison. In the meantime, we will engage with Prison Health Services to help raise awareness of the BSG within prisons.

### **Pregnancy and Maternity**

69. By making the BSG maternity payment payable from 24 weeks pregnant (the SSMG qualifying date is 29 weeks) The payment can be made as soon as the pregnancy becomes viable. If a parent has a stillborn child they are entitled to the BSG whether they apply before or after the child is born.

70. We are considering opportunities to raise awareness with regard to maternity discrimination and possible signposts for support where this has been identified as an issue.

### **Race, Religion or Belief**

71. We found that ethnicity impacts on family size, with Black and Asian ethnic groups having larger families than white and Chinese ones. Families of certain religions or beliefs are also more likely to have larger families. A quarter of Muslim households contained three or more dependent children, compared with 14% of Sikh, 7% of Hindu and 5% of Christian households.

72. The Qualifying Benefits of the BSG will capture more than half of families with three or more children. We have heard from families living on low incomes about the frustration and hardship they experience because the current grant (SSMG) no longer provides support for second or subsequent children and have re-instated these payments. This change to entitlement has particularly affected vulnerable people, who are less likely to be able to plan ahead, and larger families.

73. We engaged with a Chinese parenting group and attended a Black and Ethnic Minority mothers group while we were developing policy. Key messages were about the importance of simple communication, the provision of translation services and the impact on women of having no recourse to public funds.

74. Asylum Seekers cannot claim any benefits. If they are destitute they can apply to the Home Office for assistance but have no recourse to public funds so will not be eligible for BSG. Those who are granted refugee or humanitarian protection

status (after 5 years, they can apply for indefinite leave to remain) can claim benefits and therefore would be eligible for BSG.

75. There can be a gap between refugee status being granted and people accessing benefits and housing. The Agency may need to consider evidence requirements during this period e.g. on NI numbers.

### **Evidence Gaps:**

We have gaps of evidence relating to:

### **Gender Reassignment**

76. No issues have been raised by stakeholders in regards to this and we don't expect the BSG to negatively impact on this group. The BSG will be payable to anyone who meets the eligibility criteria, regardless of their gender.

77. Work has been carried out to look at inclusive forms of address and how those who have had their gender reassigned are recorded and how the system(s) will manage this change. This work is on-going.

### **Sexual Orientation**

78. No issues have been raised by stakeholders in regards to this and we don't expect it to negatively impact on this group. The BSG will be payable to anyone who meets the eligibility criteria, regardless of their sexual orientation.

### **Other Groups who may be affected by BSG**

79. Whilst not covered under the Equality Impact Assessment we have identified other groups who are likely to be affected by BSG. In addition to the foster carers, kinship carers and adoptive parents identified in the consultation paper above these are:

### **Young Care Leavers**

80. The responses to the Social Security consultation identified young care leavers as a group in need to support and the suggestion made that they should qualify without the requirement to be on a qualifying benefit.

81. We have held numerous meetings with colleagues within the Children and Families Directorate along with stakeholders and specialists to explore scenarios. We have conducted workshops and detailed analysis, including lessons learned by the Student Awards Agency for Scotland in this area.

82. Our analysis shows that young care leavers on low incomes will qualify under rules set out in the draft regulations and that making specific provision for young care leavers might be counterproductive in complicating administration and communication.



83. In some cases, students who are care leavers who become pregnant may not be able to access a qualifying benefit before the baby is born so they will need to wait until they can access a CTC or UC child element after the baby is born to qualify for a BSG. Where a care leaver is not on a qualifying benefit, it will be important for the Agency local delivery function to have effective referrals processes in place to ensure that they can be supported to take up that entitlement to the qualifying benefit and also apply for a BSG

### **Gypsy / Traveller Community**

84. Childbirth is very much seen as a female domain within the Gypsy/Traveller community. Traditionally, women would be attended by members of their family and extended social network at the birth of their children.

85. It is now more common for Gypsy/Travellers to give birth in hospitals; however, many do not attend ante-natal and post-natal care because of the barriers to accessing healthcare, as well as concerns that they will be judged by health care professionals and women from the settled community. Communication methods will play a vital role alongside the Social Security Agency local presence, though this might not be available from the first implementation day of the BSG but will be once full service is in place. Long application windows will also present more opportunities e.g. when the mother gives birth in a hospital or where their child starts school.

#### **Question 9(a)**

**Are you aware of any impacts we have not identified?**

#### **Question 9(b)**

**Are you aware of any evidence relevant to the BSG policy and Gender Reassignment and / or Sexual Orientation?**

# **BSG CHILD'S RIGHTS AND WELLBEING IMPACT ASSESSMENT SUMMARY**

## **Who have we involved in our deliberations?**

86. A wide range of stakeholders have been involved in developing the policy:- Cross cutting meetings have been held with Scottish Government colleagues working on Child Poverty, Children's Early Years, Supporting Maternal Health and Wellbeing, Pregnancy and Parenthood in Young People, Getting it Right For Every Child, Looked After Children and the Baby Box.

87. Representatives from the Child Poverty Action Group, Maternity Action, One Parent Families Scotland, Save the Children, Action for Children, Barnardo's, COSLA and Early Years Scotland are members of the Best Start Reference Group.

## **Data**

- Current projections show that more than 50,000 families will be supported by the BSG, with approximately 63,000 payments being paid each year.
- 19 per cent of children in Scotland, approximately 190 thousand, were living in relative poverty before housing costs (BHC) in 2015/16. This compares to 17 per cent the previous year.
- In 2015/16, 10 per cent of children were living in combined low income BHC and material deprivation, unchanged from the previous year. In 2015/16, 100 thousand children were living in material deprivation.
- After housing costs, 12 per cent of children were living in combined low income and material deprivation, unchanged from the previous year. In 2015/16, 110 thousand children were living in material deprivation.
- A publication from SPICE suggests there could be between 7,000 and 13,000 children in "informal" kinship care in Scotland.

88. We have held discussions with the Children's Parliament Scotland and drawn on relevant work that they have already done to gather views of children on similar topics. They will be holding sessions with children on our behalf during the consultation period to look at what the BSG could be used for that would make a difference to children and to take their views on responsibility for the child.

89. The BSG will benefit children in lower income households, including those living in poverty. Although BSG is not a regular payment, it does affect household incomes directly and could result in a small improvement in poverty indicators. This may not be necessarily visible in the child poverty statistics. BSG could have an impact on material deprivation by providing more income for parents and carers to buy some of the items that are on the list that determines material deprivation, so the indicator may show some improvement.

90. As detailed in the EQIA, children of young parents, in lone parent households, in lower income households, living in poverty, children with a disability, living as part of bigger family will all benefit positively from the BSG.

### **Children in families where parents have re-partnered**

91. Children born into families where the parents have re-partnered will be positively affected by the BSG. Under the current SSMG, they would not receive any support where there is already a child in the family. As a result of the restoration of payments to second and subsequent children the parents of these children will receive a £300 maternity or new child payment, as well as two further payments of £250. However, it could be argued that the first child born into a newly formed family will be disadvantaged because their parents will only receive £300 rather than the £600 that they would receive if there were no children in the family.

### **Children who are born as part of a multiple birth**

92. Children born as part of a multiple birth will be positively affected by the BSG. To acknowledge the additional costs of multiple births, in addition to a first child receiving the higher rate of payment, one child in every multiple birth will also receive the higher rate of payment.

#### **Question 10**

**Are you aware of any impacts on children's rights and wellbeing which are not identified here?**

# **BSG BUSINESS AND REGULATORY IMPACT ASSESSMENT SUMMARY**

## **Introduction**

93. 14 private businesses and 5 business organisations responded to the public consultation on social security in Scotland.

94. There was no clear message from businesses regarding the BSG. The BSG represents an additional spend of £17 million into the Scottish economy and therefore there are likely to be impacts upon businesses. Some people will buy items that they would not have bought without a payment. The impact will be dispersed across the country and sectors of the economy.

95. It is expected that the introduction of a Scottish benefits could cause additional requests for information and support from existing advice services. The Scottish Government is aware of the potential pressure points and has noted the importance of the new Scottish social security Agency working alongside the advice and support services provided by a range of organisations including Citizens Advice Bureaux, charities, social landlords and Local Authorities to provide a “seamless customer experience - from advice, to application to payment” as detailed in the Review of Publicly-funded Advice Services in Scotland<sup>3</sup>.

## **Competition Assessment**

96. The Scottish Government does not believe that the Best Start Grant/ Early Years Assistance Regulations will have an adverse impact on the competitiveness of Scottish companies or the third sector within Scotland, the UK or elsewhere in Europe.

97. Any procurement required to support the administration of the BSG will be subject to the Public Contracts Scotland (2015) Regulations and the Procurement Reform (Scotland) Act 2014 which together provide a national legislative framework for sustainable public procurement which supports Scotland’s economic growth through improved procurement practice.

## **Test run of business forms**

98. No new business forms will be brought in with the implementation of the proposed legislation.

## **Legal Aid Impact Test**

99. The right to appeal to a First-tier Tribunal is provided for in the Bill. Legal Assistance will continue to be available to individuals to appeal an entitlement decision to the First-tier Tribunal, to the Upper Tribunal, Court of Appeal or Supreme Court. The Scottish Government does not expect any new impact on the legal aid

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<sup>3</sup> <http://www.gov.scot/Resource/0053/00531600.pdf>

budget, and expects legal assistance through the statutory scheme of Advice and Assistance, and Advice by Way of Representation will continue.

### **Enforcement, sanctions and monitoring**

100. The Bill proposes a duty on the Scottish Ministers to publish an annual report on the performance of the Scottish social security system.

101. Audit Scotland will monitor and report on the delivery of the social security system, including the new social security Agency.

#### **Question 11**

**Can you identify any business related impacts not identified?**

**2019 No.**

**SOCIAL SECURITY**

**The Early Years Assistance (Best Start Grants) (Scotland) Regulations  
2019**

*Made* - - - - - \*\*\*

*Coming into force* - - - - - \*\*\*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 15 of the Social Security (Scotland) Act 2018 and all other powers enabling them to do so.

In accordance with section 55 of that Act, a draft of these Regulations has been laid before and approved by a resolution of the Scottish Parliament.

**PART 1**

**Introductory**

**Citation and commencement**

**1.** These Regulations may be cited as the Early Years Assistance (Best Start Grants) (Scotland) Regulations 2019 and come into force on \*\*\* 2019.

**Overview**

**2.—**(1) Part 2 makes provision about the interpretation of these Regulations.

(2) Schedule 1 makes provision about the early years assistance that is to be given in connection with having, or expecting to have, a new baby in the family (referred to in these Regulations as “maternity and new-baby grant”).

(3) Schedule 2 makes provision about the early years assistance that is to be given in connection with a child aged between 2 and 3½ years (referred to in these Regulations as “nursery and early learning grant”).

(4) Schedule 3 makes provision about the early years assistance that is to be given in connection with a child reaching the age at which children in Scotland usually start school (referred to in these Regulations as “school-age grant”).

**PART 2**

**Interpretation**

**When an application is to be treated as made**

**3.—**(1) An application is to be treated as made on the day it is received by the Scottish Ministers.

(2) For the avoidance of doubt, a thing that purports to be an application is not an application unless it is made in the form [prescribed by regulations under section 20(1) of the Social Security (Scotland) Act 2018].

### **Calculations involving months**

**4.**—(1) Where a day (“day 1”) is described as falling a specified number of months before or after another day (“day 2”), the date of day 1 is to be calculated as follows.

(2) Count backwards or forwards (as the case may be) the specified number of months from the month in which day 2 falls.

(3) If the month arrived at in accordance with paragraph (2) has—

- (a) more days; or
- (b) the same number of days,

as the month in which day 2 falls, day 1 falls on the same day of the month as day 2.

(4) If the month arrived at in accordance with paragraph (2) has fewer days than the month in which day 2 falls, day 1 falls on the last day of the month arrived at.

(5) For example, if a child is born on 31 August, the day falling 6 months after the day the child is born is 28 February (or 29 February in a leap year).

### **Meaning of birthday, for children born on 29th February**

**5.** In a non-leap year, the birthday of a child born on 29th February is to be taken to be 28th February.

### **Meaning of partner**

**6.** An individual is to be regarded as the partner of another individual on a day if, on that day, they are members of the same household and—

- (a) married to each other;
- (b) in a civil partnership with each other; or
- (c) living together as though they were married to each other.

### **Meaning of parental responsibility**

**7.**—(1) An individual is to be regarded as having parental responsibility for a child on a day if—

- (a) on that day, one of the following statements is true—
  - (i) the individual is a parent of the child;
  - (ii) either the individual or the individual’s partner is (or both of them are), on the day in question, an appointed guardian of the child;
  - (iii) the child is, on the day in question, placed with an individual or the individual’s partner (or both of them) by an adoption agency (as defined by section 119 of the Adoption and Children (Scotland) Act 2007);
  - (iv) either the individual or the individual’s partner has (or both of them have) responsibilities for the child on the day in question by virtue of an order of a kind mentioned in paragraph (2);
- (b) paragraph (3) or (4) applies to the individual on the day in question; and
- (c) on the day in question the child is not being looked after by a local authority within the meaning of section 17(6) of the Children (Scotland) Act 1995.

(2) The following are the kinds of order referred to in paragraph (1)(a)(iv)—

- (a) an adoption order under section 28 of the Adoption and Children (Scotland) Act 2007;
- (b) a kinship care order within the meaning of section 72(1) of the Children and Young People (Scotland) Act 2014;

- (c) a parental order under section 54 of the Human Fertilisation and Embryology Act 2008;
- (d) any order granted in a part of the United Kingdom other than Scotland which is equivalent in effect to an order mentioned in sub-paragraphs (a) to (c).

(3) This paragraph applies to an individual if—

- (a) the individual; or
- (b) the individual's partner,

is in receipt of child benefit in respect of the child.

(4) This paragraph applies to an individual if—

- (a) the child normally lives with the individual; and
- (b) either—
  - (i) no-one is in receipt of child benefit in respect of the child; or
  - (ii) the statement in paragraph (1)(a)(iv) is true.

(5) An individual is to be taken to have acquired parental responsibility for a child on the first day that the individual can be regarded as having parental responsibility for the child in accordance with paragraph (1).

### **Meaning of references to specified kinds of assistance**

**8.** References to a kind of assistance specified in this regulation are to the following—

- (a) income support;
- (b) state pension credit;
- (c) income-based jobseeker's allowance;
- (d) working tax credit;
- (e) child tax credit;
- (f) income-related employment and support allowance;
- (g) universal credit;
- (h) housing benefit.

### **Meaning of dependent**

**9.** An individual ("person A") is to be regarded as the dependent of another individual ("person B") on a day if—

- (a) person B has been awarded, for that day, a kind of assistance specified in regulation 8; and
- (b) the assistance awarded to person B for that day was awarded on the basis that person A is a dependent of person B.

*Name*

A member of the Scottish Government

St Andrew's House,  
Edinburgh  
\*\*\* 2019



## SCHEDULE 1

Regulation 2(2)

### Maternity and new-baby grant

#### PART 1

##### Eligibility

##### **Eligibility conditions: person with parental responsibility for child**

**1.** An individual who applies for a maternity and new-baby grant in respect of a child is eligible for the grant if—

- (a) the application is made before the deadline set by paragraph 2;
- (b) no-one else has received, or is due to receive, a maternity and new-baby grant or sure start maternity grant in respect of the child (but see paragraph 3);
- (c) when the application is made, the individual is habitually resident in Scotland;
- (d) when the application is made, the individual either—
  - (i) is not subject to immigration control within the meaning of section 115(9) of the Immigration and Asylum Act 1999; or
  - (ii) is a person falling within a category, or description, of persons specified in part 2 of the schedule of the Social Security (Immigration and Asylum) Consequential Amendments Regulations 2000;
- (e) at least one of these statements is true—
  - (i) when the application is made the individual is, or has been, more than 24 weeks pregnant with the child;
  - (ii) when the application is made the individual is the partner of an individual who is, or has been, more than 24 weeks pregnant with the child;
  - (iii) the individual has parental responsibility for the child on the day the application is made;
- (f) at least one of these statements is true—
  - (i) the individual or the individual's partner has (or they both have) been properly awarded, for the day on which the application is made, assistance of a kind mentioned in regulation 8;
  - (ii) when the application is made, the individual is under 18 years of age;
  - (iii) on the day that the application is made, either (or both) the individual or the individual's partner is 18 or 19 years of age and a dependent of an individual who has been properly awarded, for that day, assistance of a kind specified in regulation 8.

##### **Deadline for applying**

**2.—**(1) The deadline for an individual to apply for a maternity and new-baby grant in respect of a child is as follows.

(2) The deadline is the end of the day that falls 6 months after the day the child is born if the individual—

- (a) is, or has been, more than 24 weeks pregnant with the child; or
  - (b) is the partner of the individual described in paragraph (a);
- (3) Otherwise, the deadline is the end of the day before the child's first birthday.

### **Exception to condition in paragraph 1(b)**

3.—(1) For the purpose of determining the entitlement of the person referred to in this paragraph as the applicant, the eligibility condition in paragraph 1(b) is to be ignored in the circumstance described by the sub-paragraphs which follow.

(2) An individual (“the first grant recipient”) has been, or is due to be, given a maternity and new-baby grant or a sure start maternity grant in respect of the child.

(3) After the first grant recipient applied for a maternity and new-baby or a sure start maternity grant in respect of the child, another individual (“the applicant”) acquired parental responsibility for the child.

(4) The applicant—

- (a) is not, and has not been within 18 months of the application being made, the partner of the first grant recipient, and
- (b) is not the partner of an individual who is, or has been within 18 months of the application being made, the partner of the first grant recipient.

(5) When the applicant applied for a maternity and new-baby grant in respect of the child, no-one other than the first grant recipient had been, or was due to be, given a maternity and new-baby or a sure start maternity grant in respect of the child.

## **PART 2**

### **Assistance to be given**

#### **Value of grant**

4. The value of a maternity and new-baby grant is—

- (a) the amount specified in paragraph 5; and
- (b) any amount that falls to be added to that by way of a multiple-pregnancy supplement (see paragraph 6).

#### **The basic amount**

5.—(1) The amount referred to in paragraph 4(a) is—

- (a) £600 if sub-paragraph (2) applies in relation to the child in respect of whom the grant is to be given; or
- (b) £300 if it does not.

(2) This sub-paragraph applies in relation to the child (subject to sub-paragraph (3)) if, on the day the application for the grant is made—

- (a) there is no-one under 16 years of age living in the same household as the individual to whom the grant is to be given; or
- (b) if there is, that person is (or all of those persons are) one of the following—
  - (i) the child;
  - (ii) a sibling of the child born as a result of the same pregnancy that resulted in the child’s birth;
  - (iii) a person for whom the individual does not have parental responsibility.

(3) Where more than one child is born, or is to be born, as a result of the same pregnancy—

- (a) sub-paragraph (2) applies in relation to only one of the children; and
- (b) it is for the Scottish Ministers to decide which.

### **Multiple pregnancy supplement**

**6.**—(1) A supplement of £300 is to be added to the value of a maternity and new-baby grant in respect of a child born, or to be born, as a result of a multiple pregnancy.

(2) But sub-paragraph (1) is subject to sub-paragraphs (3) and (4).

(3) The supplement is to be added to the grant in respect of only one of the children born, or to be born, as a result of the pregnancy, and it is for the Scottish Ministers to decide which child's grant to supplement.

(4) Sub-paragraph (1) does not apply if the individual to whom the grant is to be given—

- (a) has not applied for a maternity and new-baby grant in respect of all of the children born, or to be born, as a result of the pregnancy; or
- (b) is not eligible for a maternity and new-baby grant in respect of any of those children.

### **Form in which grant is given**

**7.**—(1) A maternity and new-baby grant is to be given as money (subject to sub-paragraph (2)).

(2) If—

- (a) the Scottish Ministers offer to give an individual some or all of the value of a maternity and new-baby grant in a form other than money; and
- (b) the individual agrees to be given the grant in that form,

the grant is to be given in that form, unless the individual withdraws agreement before the grant is given.

## **PART 3**

### **Interpretation**

#### **Interpretation**

**8.** In this schedule—

“born” includes stillborn and “birth” is to be construed accordingly;

“child” includes stillborn child;

“sure start maternity grant” refers to that grant as provided for by—

- (a) the Social Fund Maternity and Funeral Expenses (General) Regulations 2005; or
- (b) the Social Fund Maternity and Funeral Expenses (General) Regulations (Northern Ireland) 2005.

## **SCHEDULE 2**

Regulation 2(3)

### **Nursery and early learning grant**

## **PART 1**

### **Eligibility**

#### **Eligibility**

**1.** An individual who applies for a nursery and early learning grant in respect of a child is eligible for the grant if—

- (a) the application is made in the period that—
  - (i) begins on the child's 2nd birthday; and

- (ii) ends at the end of the day that falls 6 months after the child's 3rd birthday;
- (b) no-one else has received, or is due to receive, a nursery and early learning grant in respect of the child (but see paragraph 2);
- (c) when the application is made, the individual is habitually resident in Scotland;
- (d) when the application is made, the individual either—
  - (i) is not subject to immigration control within the meaning of section 115(9) of the Immigration and Asylum Act 1999; or
  - (ii) is a person falling within a category, or description, of persons specified in part 2 of the schedule of the Social Security (Immigration and Asylum) Consequential Amendments Regulations 2000;
- (e) the individual has parental responsibility for the child on the day the application is made;
- (f) at least one of the following statements is true—
  - (i) the individual or the individual's partner has (or they both have) been properly awarded, for the day on which the application is made, assistance of a kind mentioned in regulation 8;
  - (ii) when the application is made, the individual is under 18 years of age;
  - (iii) on the day that the application is made, either (or both) the individual or the individual's partner is 18 or 19 years of age and a dependent of an individual who has been properly awarded, for that day, assistance of a kind mentioned in regulation 8.

#### **Exception to condition in paragraph 1(b)**

**2.—**(1) For the purpose of determining the entitlement of the person referred to in this paragraph as the applicant, the eligibility condition in paragraph 1(b) is to be ignored in the circumstance described by the sub-paragraphs which follow.

(2) An individual ("the first grant recipient") has been, or is due to be, given a nursery and early learning grant in respect of the child.

(3) After the first grant recipient applied for a nursery and early learning grant in respect of the child, another individual ("the applicant") acquired parental responsibility for the child.

(4) The applicant—

- (a) is not, and has not been within 18 months of the application being made, the partner of the first grant recipient; and
- (b) is not the partner of an individual who is, or has been within 18 months of the application being made, the partner of the first grant recipient.

(5) When the applicant applied for a nursery and early learning grant in respect of the child, no-one other than the first grant recipient had been, or was due to be, given a nursery and early learning grant in respect of the child.

## **PART 2**

### **Assistance to be given**

#### **Value of grant**

**3.** The value of a nursery and early learning grant is £250.

#### **Form in which grant is given**

**4.—**(1) A nursery and early learning grant is to be given as money (subject to sub-paragraph (2)).

(2) If—

- (a) the Scottish Ministers offer to give an individual some or all of the value of a nursery and early learning grant in a form other than money; and
  - (b) the individual agrees to be given the grant in that form,
- the grant is to be given in that form, unless the individual withdraws agreement before the grant is given.

## SCHEDULE 3

Regulation 2(4)

### School-age grant

#### PART 1

##### Eligibility

##### **Eligibility**

1. An individual who applies for a school-age grant in relation to a child is eligible for the grant if—
  - (a) the application is made within the period described in paragraph 2;
  - (b) no-one else has received, or is due to receive, a school-age grant in respect of the child (but see paragraph 3);
  - (c) when the application is made, the individual is habitually resident in Scotland;
  - (d) when the application is made, the individual either—
    - (i) is not subject to immigration control within the meaning of section 115(9) of the Immigration and Asylum Act 1999; or
    - (ii) is a person falling within a category, or description, of persons specified in part 2 of the schedule of the Social Security (Immigration and Asylum) Consequential Amendments Regulations 2000;
  - (e) the individual has parental responsibility for the child on the day the application is made;
  - (f) at least one of the following statements is true—
    - (i) the individual or the individual's partner has (or they both have) been properly awarded, for the day on which the application is made, assistance of a kind mentioned in regulation 8;
    - (ii) when the application is made, the individual is under 18 years of age;
    - (iii) on the day that the application is made, either (or both) the individual or the individual's partner is 18 or 19 years of age and a dependent of an individual who has been properly awarded, for that day, assistance of a kind mentioned in regulation 8.

##### **Period within which application must be made**

- 2.—(1) An application for a school-age grant in respect of a child must be made within the period—
  - (a) beginning on 1st June in the relevant year; and—
  - (b) ending at the end of the last day of February in the following year.
- (2) In sub-paragraph (1), “the relevant year” means—
  - (a) if the child's birthday is in January or February, the calendar year in which the child's 4th birthday falls;
  - (b) otherwise, the calendar year in which the child's 5th birthday falls.

### **Exception to condition in paragraph 1(b)**

**3.**—(1) For the purpose of determining the entitlement of the person referred to in this paragraph as the applicant, the eligibility condition in paragraph 1(b) is to be ignored in the circumstance described by the sub-paragraphs which follow.

(2) An individual (“the first grant recipient”) has been, or is due to be, given a school-age grant in respect of the child.

(3) After the first grant recipient applied for a school-age grant in respect of the child, another individual (“the applicant”) acquired parental responsibility for the child.

(4) The applicant—

(a) is not, and has not been within 18 months of the application being made, the partner of the first grant recipient; and

(b) is not the partner of an individual who is, or has been within 18 months of the application being made, the partner of the first grant recipient.

(5) When the applicant applied for a school-age grant in respect of the child, no-one other than the first grant recipient had been, or was due to be, given a school-age grant in respect of the child.

## **PART 2**

### **Assistance to be given**

#### **Value of grant**

**4.** The value of the school-age grant is £250.

#### **Form in which grant is given**

**5.**—(1) A school-age grant is to be given as money (subject to sub-paragraph (2)).

(2) If—

(a) the Scottish Ministers offer to give an individual some or all of the value of a school-age grant in a form other than money; and

(b) the individual agrees to be given the grant in that form,

the grant is to be given in that form, unless the individual withdraws agreement before the grant is given.



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